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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER DELVECCHIA, individually and as
next friend of A.D., a Minor,

Plaintiffs,

v.

FRONTIER AIRLINES, INC.,
SCOTT WARREN,
CHELSIE BRIGHT SAKURADA,
ANNA BOND, AMANDA NICKEL,
REX SHUPE, and SHAWN MULLIN,

Defendants.

Case No.: 2:19-cv-01322-KJD-DJA

**THIRD STIPULATED MOTION
TO EXTEND DEADLINES**

Plaintiffs Peter DelVecchia, individually and as next friend of A.D., a Minor, (collectively “Plaintiffs”) and Defendant Frontier Airlines, Inc. (“Frontier”), each by their undersigned counsel¹, hereby file their **THIRD STIPULATED MOTION TO EXTEND DEADLINES**, seeking to extend the

¹ Counsel for Frontier will also be representing the individual Defendants, but none have appeared in the case as of this filing.

1 deadlines to disclose initial and rebuttal experts, the discovery cutoff deadline, and the deadline to file the
 2 interim status report, dispositive motions, and the joint proposed pretrial order stated in this Court's
 3 March 20, 2020 Order (ECF No. 66) by approximately 120 days each. The parties seek to extend these
 4 deadlines as follows:

- 6 • Extend the deadline to disclose initial experts from May 26, 2020 to ***September 23, 2020***;
- 7 • ~~Extend the deadline to file interim status report from May 26, 2020 to ***September 23,***~~
 8 ~~***2020***;~~
- 9 • Extend the deadline to disclose rebuttal experts from June 26, 2020 to ***October 26, 2020***;
- 10 • Extend the discovery cutoff date from July 24, 2020 to ***November 23, 2020***;
- 11 • Extend the deadline for dispositive motions from August 28, 2020 to ***December 23, 2020***;
- 12 and
- 13 • Extend the deadline to file the joint proposed pretrial order from September 25, 2020 to
 14 ***January 25, 2021***.

16 The primary reason for this stipulated motion requesting a third extension is that despite the
 17 parties' best efforts, circumstances beyond their control have adversely affected their ability to conduct
 18 the discovery needed to comply with the deadlines in the March 20, 2020 Order (ECF No. 66). These
 19 circumstances include the current COVID-19 pandemic that is making assembly and travel inadvisable
 20 and, in some instances, forbidden by federal and state decrees. Although it remains unknown when the
 21 pandemic-related restrictions will be lifted, the parties believe that a four-month extension of deadlines is
 22 advisable until further information becomes available.

24 Further, some of the documents Plaintiffs have requested in written discovery have been
 25 determined to be Sensitive Security Information (SSI) by the Transportation Security Administration
 26 (TSA). On April 1, 2020, this Court ruled that the circumstances of this case warrant designating Plaintiff
 27

1 Peter DelVecchia and his attorney John McKay as “covered persons” under 49 CFR Part 1520.7 and
2 required them to submit to any security background check or other procedures or requirements for
3 safeguarding SSI required by TSA. (ECF No. 76.) In accordance with this Order, Messrs. DelVecchia
4 and McKay are in the process of submitting to a background check by TSA. It is unknown when this
5 process will be completed by TSA, although Messrs. DelVecchia and McKay believe that they have
6 submitted all information that TSA has requested of them. TSA has also requested that the parties
7 stipulate to an additional protective order specifically regarding SSI. Plaintiffs have objected to the entry
8 of that additional protective order because it would impose procedures and terms that Plaintiffs believe
9 are in conflict with this Court’s April 1 Order (ECF No. 76). The parties are communicating with TSA in
10 an effort to resolve this issue prior to involving the Court.
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12

13 Additionally, Plaintiffs have requested certain Fed. R. Civ. P. 30(b)(6) depositions from Frontier.
14 The parties currently anticipate taking these depositions in-person in Denver, Colorado once the
15 pandemic-related travel advisories and assembly restrictions are lifted. TSA must release the documents
16 marked SSI discussed above to Messrs. DelVecchia and McKay before Plaintiffs depose Frontier’s Fed.
17 R. Civ. P. 30(b)(6) witnesses. These depositions are in addition to several fact witness depositions that
18 still need to be completed, including certain passengers on the subject flight and Plaintiffs’ medical
19 providers. Further, the Court’s recent Order (ECF No. 83) on Plaintiff’s Motion to Compel imposed
20 restrictions on certain document requests and topics Plaintiffs intend to cover in the Fed. R. Civ. P.
21 30(b)(6) depositions; Plaintiffs will be filing objections pursuant to Fed. R. Civ. P. 72(a) to have those
22 restrictions reviewed by the District Judge prior to the depositions being scheduled.
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24

25 Finally, Frontier seeks to have both Plaintiffs examined pursuant to Fed. R. Civ. P. 35. The parties
26 are in the process of attempting to agree on terms and protocols for these examinations to avoid the need
27 for a Fed. R. Civ. P. 35 motion. If agreed to or ordered by this Court, these examinations must be
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1 conducted in person after the pandemic-related travel advisories and assembly restrictions are lifted, and
 2 medical facilities are no longer restricted to functions essential to combating the pandemic.

3 The additional time sought by this stipulated motion may allow the parties to complete these
 4 tasks, although it remains to be seen how long the pandemic-related restrictions on normal activities will
 5 remain in effect. The parties have been working diligently to complete fact discovery. Written discovery
 6 is ongoing, and 14 party and fact witness depositions have been completed. Despite the parties' best
 7 efforts, additional time is needed to complete fact and expert discovery and to provide necessary
 8 information to the parties' experts so that reports can be completed before the disclosure deadlines. The
 9 parties are working expeditiously and cooperatively to conduct discovery and to otherwise comply with
 10 the Court's Scheduling Order as previously extended. This is the third motion for a continuance of
 11 pretrial deadlines filed in this case.
 12

13 DATED this 20th day of May, 2020

Respectfully submitted,

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 15
 16 /s/ John D. McKay
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25 ***Attorneys for Plaintiffs Peter DelVecchia &***
 26 ***A.D., a Minor***

/s/ Tara Shelke

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CERTIFICATE OF SERVICE

Pursuant to LR IC 4-1, I hereby certify that on the 20th day of May, 2020, the foregoing **THIRD**
STIPULATED MOTION TO EXTEND DEADLINES was served upon the following counsel of
record *by email only*:

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IT IS SO ORDERED:



UNITED STATES MAGISTRATE JUDGE

DATED: May 21, 2020

****NOTE - The Local Rules as amended on 4/17/2020 eliminated former Local Rule 26-3's requirement for Interim Status Reports. Therefore, the parties are not required to submit an Interim Status Report. The parties are directed to review the revised local rules for further changes.****